

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF TEXAS
3 HOUSTON DIVISION
4 AUSTIN THOMPSON HUGHES § CASE NO. 4:21-CV-1994
§ HOUSTON, TEXAS
5 VERSUS § WEDNESDAY,
§ NOVEMBER 17, 2021
6 CITY OF HOUSTON, ET AL § 10:27 A.M. TO 10:34 A.M.

7 INITIAL CONFERENCE (VIA ZOOM)

8 BEFORE THE HONORABLE ANDREW EDISON
9 UNITED STATES MAGISTRATE JUDGE

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11 APPEARANCES: SEE NEXT PAGE

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1 HOUSTON, TEXAS; WEDNESDAY, NOVEMBER 17, 2021; 10:27 A.M.

2 THE COURT: Hughes versus the City of Houston,
3 4:21-CV-1994.

4 MR. HOOVER: Good morning, Judge.

5 MS. WARREN: Good morning. Courtney Warren on
6 behalf of the Plaintiff, Your Honor.

7 THE COURT: Ms. Warren.

8 MR. HOOVER: Good afternoon, Your Honor. On
9 behalf of the City of Houston, Acevedo, Garcia, Few, and
10 Seymour.

11 THE COURT: Good to see you, as well, Mr. Hoover.

12 MS. SCOTT: Meagan Scott on behalf of Defendants
13 Ogg and Alfred.

14 THE COURT: Hello, Ms. Scott.

15 MR. BUTT: And good morning, Your Honor. James
16 Butt on behalf of Harris County.

17 THE COURT: I was wondering. I only have like
18 four cases left out of all these people and I was like, now
19 there are a few cases that (indiscernible).

20 Okay. So we have a Section 1983 arising out of
21 the 2021 arrest and there were multiple motions to dismiss
22 that are pending. I did not send you-all a schedule because
23 I wanted to sort of, you know, (indiscernible) each case is
24 a little unique, given the qualified immunity issue and so I
25 just want to (indiscernible).

1 This was in advance, but I did want to -- what we
2 do on a schedule or do we -- I would like a schedule in
3 place just so things don't fall through the cracks, but
4 given all the motions to dismiss, I just sort of
5 (indiscernible), but I don't know what to do on this
6 hearing.

7 MR. HOOVER: I agree, Judge, that it makes more
8 sense, I guess, to kind of establish some timelines out of
9 the time period after ruling on the Motions to Dismiss
10 because -- I mean, obviously whenever Judge Hanks gets time
11 to rule. Whenever you-all make your rulings, whenever you
12 make the rule, but at least the officer is qualified
13 immunity defense was out following the procedure there
14 really can't be discovery, so I don't really know a better
15 way to do it, but it's pretty easy to get all this on one.

16 MS. WARREN: Yes, Your Honor. I would just point
17 out that the parties did submit a Joint Scheduling and Case
18 Management Plan. We (indiscernible) on the amount of time
19 would be for discovery and things like that. I guess our
20 main dispute is whether discovery can start now or if we
21 have to wait until the Motions to Dismiss. Obviously the
22 discovery should start now. I think it's with regard to our
23 initial disclosures, it's fine to go forward and then I also
24 think that (indiscernible) relief on the claims that
25 discovery should be started on those claims.

1 And so that's my position. Defendants
2 (indiscernible) documents that will work for our Motions to
3 Dismiss.

4 THE COURT: Let me do this on that. I don't want
5 to jump in that play right now. As I say, Judge Hanks might
6 (indiscernible) or he might want to. I don't want to step
7 on his toes.

8 MS. WARREN: Am I beginning like (indiscernible).

9 THE COURT: I'm sorry. Go ahead.

10 MS. WARREN: I was just thinking at length, Your
11 Honor, we have some extension requests and it seems that
12 Judge Hanks granted some of those while we (indiscernible),
13 but I think right now those replies (glitch in the audio) --

14 THE COURT: I can't hear you. You went on mute,
15 unless you --

16 MS. WARREN: Sorry.

17 THE COURT: There you go.

18 MS. WARREN: So I think everything should be fully
19 briefed by December 3rd, if nothing can (indiscernible)
20 status on the last (indiscernible).

21 (Glitch in the audio)

22 THE COURT: Okay. Let me do this. Let me kind of
23 stew on this for a second just because as I say, it really
24 doesn't make -- I might end up setting a scheduling just to
25 make sure nothing falls through the cracks, but I just kind

1 of need a decision from Judge Hanks one way or the other on
2 some of these issues and obviously, you know, depending on
3 what ruling he makes on qualified immunity and ends up in
4 the Fifth Circuit immediately, so in terms of discovery
5 issue, as I say, I don't want to step on Judge Hanks' shoes
6 on this one.

7 My suggestion is tee up the discovery letter and
8 then maybe they indicate themselves or (indiscernible) on
9 24 hours and (indiscernible) get the discovery issue
10 resolved.

11 We get that, as well as some other at least maybe
12 non-qualified immunity discovery to proceed with whatever
13 plan is developed.

14 You're (indiscernible) make no rules.

15 MR. HOOVER: I'm good, Judge. You have a plan. I
16 like it.

17 THE COURT: So disappointing to be honest with
18 you. Totally pass the buck, but that's what I'll do.

19 So with that, anything else we should talk about
20 (indiscernible)?

21 MR. HOOVER: Yes, Judge. So protective order,
22 there's the parties, I think have finally hammered out some
23 details of the protective order, but a little different from
24 the Court's standard order because the issue of expungement
25 in this case, that the Plaintiff after the conclusion can

1 order expungement within the Texas statute, the Government
2 is not allowed to possess these records, so obviously this
3 goes to the discovery rule in becoming in possession of
4 those records. So we've added some language to that order,
5 whichever one is (indiscernible) before Court.

6 THE COURT: Like I say, we don't want to add or
7 subtract language, but the real key is that we have a
8 complaint. People when try to add language, but every
9 document filed in this case is sealed forever.

10 MR. HOOVER: Sure, but let's take that out.

11 THE COURT: Yeah, take that out and
12 (indiscernible).

13 Okay. Good to see all of you today and I look
14 forward to working with you and I will not enter that order
15 until I've thought about it further.

16 Have a good day and good holiday.

17 (The parties thank the Court.)

18 THE COURT: You're excused.

19 (Proceedings adjourned at 10:34 a.m.)

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1 *I certify that the foregoing is a correct
2 transcript to the best of my ability produced from the
3 electronic sound recording of the ZOOM/telephonic
4 proceedings in the above-entitled matter.*

5 /S/ MARY D. HENRY

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